

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANDREW GROSS, III,

Petitioner,

Case Number 2:13-cv-12630
Honorable Lawrence P. Zatkoff

v.

UNITED STATES OF AMERICA,

Respondent.

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OPINION AND ORDER DENYING MOTION TO ALTER OR AMEND JUDGMENT

Petitioner Andrew Gross, III, is a federal prisoner confined at the Federal Correctional Institution (FCI) in Pekin, Illinois. Petitioner was convicted of seven counts of mail fraud, 18 U.S.C. 1341, six counts of credit card fraud, 18 U.S.C. 1029(a)(2), and one count of identity theft, 18 U.S.C. 1028(a)(7). The Court sentenced him to a total of eighty-four months of imprisonment. *See United States v. Gross*, 84 Fed. Appx. 531, 532 (6th Cir. 2003). His petition filed under 28 U.S.C. § 2241 raised four claims. On July 9, 2013, the Court summarily denied the petition because Petitioner failed to establish that his remedy under 28 U.S.C. § 2255 was inadequate or ineffective.

Petitioner's motion to alter or amend the judgment pursuant to Federal Rule of Civil Procedure 59(e) is presently before the Court. A motion to alter or amend judgment brought by a habeas petitioner under Rule 59(e) may properly be analyzed as a motion for reconsideration pursuant to Local Rule 7.1(h) of the Eastern District of Michigan. *Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999). However, a motion for reconsideration

which presents the same issues already ruled upon by the Court, either expressly or by reasonable implication, will not be granted. *Id.*; *See also Flanagan v. Shamo*, 111 F. Supp. 2d 892, 894 (E.D. Mich. 2000). The movant must not only demonstrate a palpable defect by which the Court and the parties have been misled but must also show that a different disposition of the case will result from a correction thereof. A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. *Witzke v. Hiller*, 972 F. Supp. 426, 427 (E.D. Mich. 1997).

Petitioner merely repeats the arguments raised in his original habeas application. Thus, Petitioner presents issues which this Court already ruled upon, either expressly or by reasonable implication, when it summarily denied his habeas application. Accordingly, Petitioner's motion for reconsideration is denied. *See Hence v. Smith*, 49 F. Supp. 2d at 553.

Based upon the foregoing, Petitioner's motion is DENIED [Dkt. 13].

IT IS SO ORDERED.

S/Lawrence P. Zatkoff
Hon. Lawrence P. Zatkoff
United States District Judge

Dated: May 22, 2014